

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**EDO GINSBURG, M.D., and
BRIAN P. YUSKEVICH, M.D.**

v.

**ARIA HEALTH PHYSICIAN
SERVICES, ARIA HEALTH
SYSTEM, and RANDY K.
METCALF, M.D.**

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CIVIL ACTION

No. 12-1140

ORDER

AND NOW, this 31st day of August, 2012, after a conference under Federal Rule of Civil Procedure 16 at which both parties were heard, it is **ORDERED** that:

1. The parties shall complete general discovery by **October 22, 2012**.

2. Pretrial memoranda in accordance with Federal Rule of Civil Procedure 26 as amended, Local Rule 16.1(c), and the rules of this Court as stated in the Handbook of Pre-Trial and Trial Practices and Procedures of the United States District Court for the Eastern District of Pennsylvania (available from the Clerk of Court or the Philadelphia Bar Association or online at www.paed.uscourts.gov, under Judge Shapiro's procedures) shall be filed as follows:

Plaintiffs – on or before **October 29, 2012**.

Defendants – on or before **November 12, 2012**.

Plaintiffs shall propose stipulated facts in numbered paragraphs. Defendants shall state agreement or disagreement with each of plaintiffs' proposed stipulated facts and may counter-propose stipulated facts in numbered paragraphs to which plaintiffs are obligated to respond prior to the final pretrial conference.

All witnesses as to liability and damages must be listed. Only listed witnesses may testify at trial except by leave of court. Any party who seeks to use deposition testimony at trial must submit deposition designations or counter-designations, and objections in the party's pretrial memorandum.

3. If it is believed that any additional discovery is necessary, it must be specifically requested, with the justification stated, in the party's pretrial memorandum. Any other pretrial or trial matter requiring attention of the judge prior to trial, including but not limited to subjects for consideration at pretrial conferences listed in Federal Rule of Civil Procedure 16, shall be specifically addressed in the party's pretrial memorandum.

4. Exhibits shall be submitted to chambers with the final pretrial memoranda. In accordance with Federal Rule of Civil Procedure 26(a)(3), listed exhibits shall be numbered and premarked for use at trial; no exhibits shall be listed unless they are already in the possession of opposing counsel. Only listed exhibits may be used in the party's case-in-chief except by leave of court.

5. Expert reports in accordance with Federal Rule of Civil Procedure 26(a)(2) shall be due on or before the due date of each party's pretrial memorandum. If the opposing party wishes to depose an expert, the deposition shall be taken before the final pretrial conference, unless otherwise ordered by the court. An expert's testimony at trial shall be limited to the information provided in the written report.

6. Any motion for summary judgment or other pretrial motion must be filed on or before the due date of the moving party's pretrial memorandum; a response to any such motion may be filed in accordance with the Federal Rules of Civil Procedure. No reply is contemplated. Oral argument on all motions will be heard at the final pretrial conference.

7. The final pretrial conference will be held on **December 19, 2012, at 2:00 P.M.** Trial counsel must attend. It is the responsibility of any trial counsel who cannot attend to contact the court as soon as any conflict becomes known so the court may consider rescheduling the conference. Unless the court has otherwise granted permission, whoever attends the final pretrial conference will try the case.

In addition to each trial counsel, plaintiffs and a representative of each defendant with full authority to settle the case shall attend the final pretrial conference. Telephone availability is not acceptable unless leave of court has been granted. Failure to comply with this order may result in sanctions in accordance with the Federal Rules of Civil Procedure.

8. This case will be placed in the jury trial pool on **January 2, 2013**, subject to call on 48 hours notice in accordance with the standing rule of this court as published in *The Legal Intelligencer*. One week prior to trial, the parties shall submit points for charge and may submit proposed voir dire questions or jury interrogatories, preferably on a computer disk.

/s/ Norma L. Shapiro

J.